

MEMORANDUM FOR: Office of Legislative Counsel

ATTENTION:



SUBJECT: Taxation of Overseas Allowances

REFERENCE: Legislative referral memorandum from OMB dtd.  
1 Aug 75 and related transmittal memorandum  
from Donald Massey dtd. 12 Aug 75

1. Attached to reference legislative referral memo are two letters to the Director of OMB, one from Secretary of State Henry Kissinger and the other from the DCI. Both letters address the question of taxation of allowances payable to Government civilians serving overseas and both urge Executive Branch opposition to such taxation. The legislative referral memo itself, however, makes reference to "the difference, if any, for tax purposes, between American private sector and Federal civilian employees working overseas." This phrasing suggests that the inquiry has to do with more than just allowances and leads me to suggest that, in any comment to OMB, we point out that any discussion of the comparative economic positions of private sector employees and Federal Government employees working overseas must include reference to differences in tax liability on the basic income. The Federal employee continues to pay US taxes throughout his overseas tour, no matter how lengthy; whereas the employee of the private firm, after 18 months residence in a foreign country, is relieved of responsibility for payment of US income tax on a significant portion of his income, including allowances.

2. These differences in tax liabilities provide the basis for our response to the first question posed in your transmittal note of 12 August-- "What justification is there for exempting the allowances of Federal Government employees working overseas and not exempting the allowances of US citizens employed overseas by private enterprise?" If all other things were equal, the same principles could apply to allowances payable to the employees of private enterprise as are applied to the allowances

of Government employees. Indeed, many firms operating overseas base their allowance structure on the US Government standards and these allowances are designed to do for the private citizen exactly what they are designed to do for the Federal employee; that is, to help him to offset the additional cost of maintaining his household under the vastly more expensive circumstances which he frequently faces in an overseas environment. As noted above, however, all things are not equal in the treatment of these two populations and until the same tax rules are adopted for basic income tax for both Federal employees and the employees of private firms, it seems inappropriate to insist on comparable tax rules on allowances.

3. Your second question, "What additional arguments are there that overseas allowances do not reflect additional compensation?" seems well answered in Secretary Kissinger's memo as endorsed by the DCI. We have only two observations to add:

a. Significant numbers of Federal employees assigned abroad maintain their residences in local tax jurisdictions (most frequently Virginia, the District of Columbia and Maryland) and continue while overseas to pay taxes to these jurisdictions, supporting among other things school systems which they cannot use while residing overseas. The payment of an education allowance to a family in these circumstances merely restores the taxpayer's access to public schooling.

b. Secretary Kissinger, in his discussion of the quarters allowance on page 3 of his memorandum, speaks of "extraordinary housing expenses" but does not underscore the fact that the housing allowances payable in many if not most foreign posts are not adequate to cover the cost of housing for the average US Government employee. It is not at all uncommon for an employee to supplement his housing allowance out of his own pocket. In fact, he is expected to.

4. I am certain that both the DDA and the DDO will have other useful suggestions about the position CIA should take on this question of taxation of allowances.

  
Comptroller

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